

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Line-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

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**APPENDIX A**

**AFFIDAVIT OF JOHN M. REIGLE**

**IN SUPPORT OF**

**EMERGENCY PETITION OF ALLBAND COMMUNICATIONS COOPERATIVE  
FOR INTERIM PARTIAL WAIVER OF THE PART 54.302 RULE AND FOR  
INCREASED PER-LINE SUPPORT**

I, John M. Reigle, being of lawful age and duly sworn, state as follows:

1. My name is John M. Reigle, President and Founder of Allband Communications Cooperative ("Allband" or "ACC") and its non-regulated affiliate, Allband Multimedia (AMM). For almost 20 years I have worked to bring traditional telephone and broadband service to unserved areas of Northeast Michigan through my volunteer efforts with ACC.

2. I submit this affidavit in support of the accompanying Emergency Petition of Allband Communications Cooperative for Interim Partial Waiver of the Part 54.302 Rule and for Increased Per-Line Support.

3. Due to adoption of the 1996 Amendments to the Federal Communications Act, 47 U.S.C. § 151, *et al*, and the Universal Service Fund (USF), and regulatory approvals of the Federal Communications Commission (FCC) and the Michigan Public Service Commission (MPSC), and loan approvals by the United States Department of Agriculture (USDA) Rural Utility Service (RUS), and investment of funds and resources locally, Allband now serves sizeable portions of four counties in northeast Michigan that never had telecommunications service before the advent of Allband.

4. Allband's advanced fiber-to-the-home infrastructure provides services such as traditional telephone service, free calling features, long distance, high-speed Internet, and other advanced services. Allband as an Incumbent Local Exchange Carrier (ILEC), also undertakes important public interest duties to provide emergency connections including 911 services in an area that lacked traditional telephones and cellular service.

5. Allband requires the previously established and expected "sufficient and predictable" USF revenues to (a) maintain affordable customer rates and services that are comparable to those provided in urban areas, (b) provide and maintain quality service, and (c) to meet its RUS debt obligations associated with its plant investment and network.

6. The current revenue reductions caused by the Commission's July 2016 Order and implementation (without waiver) of the Part 54.302 Cap will, by the end of January 2017, or very soon thereafter, provide insufficient revenues for ACC to:

- Continue to provide voice and 911 ILEC services to any of its customers.
- Pay the principal and interest on ACC's existing loan issued by the USDA RUS which was based on the financial security provided by the previously FCC authorized and now contemplated USF Funding.
- Continue operations as an ILEC telecommunications carrier in its otherwise underserved exchange.

7. ACC is forced to apply for the accompanying emergency waiver because of the uncertainty regarding the amount of time the FCC will take to approve a new waiver for ACC per its July 2016 Order, the unexpected amount of time USAC has taken to complete ACC's compliance review, and the undue financial hardship that ACC is currently experiencing due to the order. ACC requests that the FCC approve ACC's emergency waiver in an expedited manner, and also requires a prompt completion of USAC's compliance review, and to then fast-track the approval of ACC's final waiver request when submitted.

8. The following information provides essential background and information concerning the creation of ACC and the successful provision of communications services to ACC's previously unserved area:

- a. After moving to Curran, Michigan in 1997, I contacted GTE for phone service. Thereafter, Verizon acquired GTE and informed me that they would not, under any circumstances, bring phone service to my home because I lived in an "unserved/unassigned area."
- b. I then contacted the Michigan Public Service Commission (MPSC) to address the situation and MPSC Staff member, Ron Choura, informed me that the MPSC had never forced a phone company to serve any of the unassigned areas of Michigan and if I wanted phone service, I "should start my own company", clearly startling advice coming from an agency that regulates phone companies and is expected to promote the public interest.

- c. In 2000, due to refusals to serve the area by the established incumbent carrier, the local affected residents began researching the formation of a communications cooperative based upon the adoption of the 1996 Act and Universal Service Funding, which was identified as the only financial mechanism available to fund a green-field network in such a rural area. I then worked with Michigan State University to develop a business plan that could be presented to the RUS, for a loan to construct a network that could provide 911, telephone and high-speed Internet. This research effort was assisted by a grant provided by Michigan State University, and also by volunteer efforts of MSU instructors and students.
- d. On or about November 5, 2003, Allband filed its Articles of Incorporation with the State of Michigan.
- e. Given the complicated nature of the telecommunication industry and the overwhelming accounting and regulatory requirements that Allband's inexperienced members were faced with, the Cooperative recruited and hired the services of an industry expert in the field of high cost regulated accounting and ILEC operations, Mr. Paul Hartman, who in subsequent recent years has served the FCC as a contracted expert in the field since parting ways with Allband on October 3, 2007. Mr. Hartman's employment represented Allband's intent to establish an accurate accounting system and operational environment that would adhere to the rules of the regulatory agencies applicable to Allband, including the FCC, USAC, RUS, and the MPSC.
- f. On July 29, 2004, Allband filed a loan application with the RUS, along with extensive supporting documentation, as required by RUS.
- g. On December 2, 2004, the MPSC in Case U-14200 granted Allband a permanent license to provide service in the then-unserved/unassigned geographical area.
- h. On August 11, 2005, the FCC granted Allband's waiver of certain FCC's rules to allow Allband to be treated as an Incumbent Local Exchange Carrier (ILEC) for NECA (National Exchange Carriers Association) pooling and USF purposes.<sup>1</sup> The FCC's 2005 Order recognized that Allband's provision of services to the unserved/unassigned areas would be costly on a per-line basis, but would be consistent with the 1996 Act. The FCC's 2005 Order, paragraph 19, specifically concluded that "[b]ased on the record... these waivers are in the public interest because they will facilitate the ability of Allband to serve previously unserved areas."

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<sup>1</sup> (FCC Order *In the Matter of Allband Communications Cooperative Petition for Waiver of Sections 69.2(hh) and 69.601 of the Commission's Rules in WC Docket No. 05-174*, released August 11, 2005 (Allband Order).)

- i. On August 18, 2005, the RUS granted a loan for \$8 Million to fund the construction of Allband's green-field network under USDA Rural Development Loan (RUS) ID MI-570-A.
  - j. On October 19, 2005, Allband started construction of its network.
  - k. On November 10, 2005, the MPSC in Case No. U-14659 granted Eligible Telecommunications Carrier (ETC) status to Allband for purposes of Section 214(e) of the 1996 Federal Act.
  - l. On November 30, 2006, Allband activated its first member customer.
  - m. In December 2006, based upon FCC waivers, Allband, as an ILEC, began receiving USF Interim Common Line Support and Local Switching Support, which allowed Allband to minimize administrative expenses and maintain reasonable access rates.
  - n. In January 2008, Allband began receiving USF High Cost Loop Support to support a substantial portion of the ongoing high cost of its network facilities and service while maintaining reasonable local exchange rates.
9. ACC is licensed by the State of Michigan, has received waivers from the FCC, and has received payments from NECA and the USF fund for many years to recover the high cost of our operations.
10. ACC has received recognition for its efforts from local and state government offices, and from the USDA Rural Development offices for its efforts to service rural low income, high unemployment areas.
11. ACC was created to serve an area that was shunned by existing phone companies due to a lack of return on investment. No other telephone service solutions were available to our community and we explored all other options before starting our own cooperative, applying for and obtaining a RUS loan and requesting and obtaining USF support.
12. ACC jumped through multiple hoops for many years to become an Incumbent Local Exchange Carrier (ILEC) (and was supported in this process by the FCC) so that ACC would be

eligible for USF support. In fact, ACC built an entire 20-year business plan around the foundation and rules of the USF fund, a fact presented to the FCC during its ILEC waiver request process, and to the RUS in obtaining its RUS loan. ACC has met all the requirements and implemented all the deliverables to carry out its duties and functions as an ILEC in its service area.

13. Cellular coverage is sparse and unreliable in our exchange as it contains areas that are heavily forested with high and low land areas. The only reliable telecommunication service is provided by ACC's network as there are no alternate sources of dial-tone in the exchange. ACC offers the most reliable form of telephone and high-speed Internet available.

14. ACC has developed more economic stimulus and new jobs in this community than anyone else in the last 50 years. ACC has been a terrific investment in the societal foundation of our community and for that matter, this country, and it has the potential to improve and grow further if given the support it deserves from the USF.

15. ACC and its customers, and the public interest will be irreparably harmed and prejudiced if ACC's Emergency Petition is denied or delayed, for several reasons:

a. ACC's RUS loan was dependent on receiving USF support. By reducing ACC's USF funding, ACC's business model and ability to pay back its RUS loan is retroactively destroyed. To date, neither the FCC nor RUS has publicly addressed how USF reform will impact RUS rural development loan security, other than an unproven waiver process. This same waiver process, which was used by the FCC as a ripeness defense in past legal challenges, now appears to be a defunct process that has caused unnecessary expense and has proven to be a hollow illusory promise for companies such as ACC that were granted waivers to negate the financial impact of USF reform. ACC has challenged the \$250 cap for years because it has no rational application to ACC given the newness of its capital investment and the nature of ACC's rural service area.

b. The reduction in USF support will very soon hinder ACC's ability to repay its RUS loan and operate its network efficiently. ACC has now depleted its capital reserves due to its reduction in USF funding and now has no capital for maintenance and network repairs, nor the cash flow to continue making payments on its existing RUS loan.

c. Per the Telecommunications Act of 1996, the FCC's mission, as I understand it, is to forward the goals of the Act and ensure that every citizen has access to affordable telephone and dependable 911 services. Rather than creating unnecessary funding barriers for companies like ACC which actually use a very small portion of the fund's budget, the FCC should recognize that companies like ACC need financial support through federal USF funds to serve high cost exchanges and current unserved areas in order to meet the goals of the Universal Service Fund. The imposition of the national \$250 per-line funding cap as imposed in the July 2016 FCC order does not consider ACC's unique circumstances and is not adequate to allow ACC to continue services in its rural high-cost locations, nor is it enough to support investment in areas that to this day do not have traditional telephone service or broadband, but which could be served by ACC in the future.

d. ACC survived the 2008 economic meltdown that this country experienced in part due to local partnerships and financial aid in the form of bridge loan financing and leased equipment and facilities, which were financially secured by the USF support mechanisms and were in place before the \$250 per-line cap. These agreements are now in jeopardy due to USF reform and ACC's July waiver denial. ACC was given no forewarning that the FCC's rulemaking would be retroactively applied to Allband given its successful efforts to serve its previously unserved territory. As discussed, ACC has no debt-free collateral and cannot borrow money from anyone else due to RUS rules and liens. It makes little sense that the FCC's 2011 Transformation Order and July 20, 2016 Order retroactively restricts ACC from the funds needed to support ACC's

Network (which was constructed before 2011), and was ironically implemented on the premise of “protecting” the ratepayer supplied USF fee-based fund, which will result in ACC’s eventual default on a tax-funded loan from a sister agency, the RUS.

e. ACC, an 11 year old green field startup, has been guided by consultants who have been in business for over 20 years. ACC has participated in annual audits by both its CPA firm and RUS since 2007. ACC is also a member of the National Exchange Carrier Association (NECA) which approves and submits its cost studies and FCC reporting to USAC. ACC has responded to all previous USAC inquiries without issue until the recent USAC review commenced in 2015. Until our waiver extension was requested at the end of 2014, not one entity, private or governmental, had suggested that ACC was not adhering to proper cost-allocation or affiliate transaction rules. Therefore, I again question why the FCC has at this late time, imposed retroactive revisions of ACC’s previously submitted audits and cost studies, which were accepted over the years.

f. If an emergency interim level of increased USF support is not approved for ACC in an expedited manner, ACC will soon go out of business. This will result in the economic waste of its broadband-capable rural network and harm ACC’s customers and the overall public interest. An ironic setback for our community, considering most American politicians view rural broadband growth as a high priority on their agendas.

g. ACC, the only provider of reliable telecommunication services in the Robbs Creek exchange, offers its services to anyone who submits a request in our exchange. Due to an ongoing lack of cellular service, the Cooperative continues to place an emphasis on its life-saving 911 services as it did upon its inception. If ACC is not granted the requested level of interim support and the FCC does not take immediate action with USAC to complete our compliance review, ACC will not have the cash flow to operate beyond January 2017, or soon thereafter, and ACC will be



forced to default on its RUS loan and close its doors. This would not only be a setback for our community in terms of its quality of life, safety and economic development potential, but also for the USF program and the good intentions of Congress as documented in the 1996 Act.

16. It appears that the FCC and USAC's ill-defined and delayed process fails to match ACC's expeditious efforts to resolve this matter and minimize financial harm to ACC, its customers, and to protect the public interest. To be blunt, the issues identified by USAC and the FCC could have been easily fixed and remedied back in September 2015 during its original USAC inquiry. Instead ACC has been subjected to a time-consuming and inefficient waiver process with no end in sight, other than the destruction of a non-profit cooperative whose primary mission is to carry out the intentions of Congress and Universal Service. Despite this, Congress established the USF to undertake the expansion of service in rural areas at reasonable rates, a mission which ACC has successfully accomplished. The FCC's actions to address the size of the multi-billion Universal Service Fund is being overly focused onto ACC, one of the few companies who have proven that its use of the fund is actually meeting the goals of the 1996 Act, and which utilizes a miniscule portion of the Fund for this purpose, compared to large carriers such as AT&T and Verizon, and others, which receive the lion's share of USF funding on an annual basis.

17. Continued imposition of the Order's per-line caps on Allband would have a catastrophic and immediate impact. The federal USF revenues comprise a significant percentage of Allband's total revenues and the Order's \$3,000 per-line annual cap will reduce Allband's regulated revenues by such a large amount that it would render Allband incapable of providing service and to meet its loan obligations to the RUS.

18. I wish to clarify three specific issues that were raised in previous FCC Orders or USAC documents, involving the interest rate on my past unsecured bridge loans to ACC, the bonus

granted to General Manager Ron Siegel in the amount of \$1,000 toward a college fund for his daughter upon her birth in 2014 and issues identified with family travel.

With respect to my unsecured loan to Allband, I have remained, to date, ACC's ONLY willing lender of unsecured capital and have loaned ACC operating funds on several occasions, mainly due to the fact that RUS has full lien on all of ACC's assets and therefore, borrowing operating capital from a traditional bank or other source is impossible, as RUS does not provide operating loans or lines of credit. Additionally, attempts to raise funds within the Cooperative membership had and continue to be unsuccessful, therefore I was left with no choice but to extend credit to ACC. The only collateral I have had to work with is my trust in ACC's mission, our hard-work and competence of our limited staff, our accomplishments and our potential. This is why the FCC's criticism of a 11-12% interest rate on my unsecured loans per its June 2015 Order was baffling to me from a business perspective. Given the turbulent nature of the economy at the time of my unsecured loan and the average interest rates for unsecured debt by other lenders (which was much higher), it is difficult to understand why FCC would dedicate resources to question such an obvious and unsurprising business decision given the collateral restraints and lack of borrowing power fully documented by ACC over the years.

Despite the unfortunate fact that ACC is currently in a negative cash flow situation, I am now hesitant to take further risk with unsecured loans. My commitment to ACC, as demonstrated in this affidavit is unwavering, but the reduction of ACC's per line support as of July 2016 and the ongoing delays and doubt that is now cast over ACC due to both the FCC's actions and inactions is forced me into a position that challenges the feasibility of further loans. If the FCC is willing to do their part in ensuring the financial stability of ACC, which is simply supporting their past decision

to provide the amount of USF support ACC needs to repay its RUS loan, I will be much more inclined to continue the level of financial support I have provided for the last 20 years.

In the September 23, 2015 USAC Memorandum, the Internal Audit Division (IAD) identified a “misallocation”, concerning a modest, one-time only, contribution of \$1,000 paid to General Manager, Ron Siegel’s college fund for his newborn daughter. This finding is a matter of judgement or difference of opinion (or at most an unintentional misallocation). It is unfortunate that such a well-intended action by the ACC Board of Directors (Board) was highlighted in such a negative manner by the FCC in its July 2016 Order. The Board voted to make the contribution to his daughter’s college fund as a way to retain a talented staff member, as an employee bonus or benefit. The Board is very much aware of how difficult it would be to hire a person who has the skills comparable to our General Manager, Ron Siegel. He is one of very few individuals in the USA who can splice fiber, install fiber, trouble shoot issues at client’s homes and businesses, deal with all of the various governmental agencies, the permitting process, grant applications, write vast documents for waivers, effectively deal with Senators, Congressmen, accountants, engineers, and still find time to raise a family. There is not one single job that Ron Siegel cannot, or has not done at Allband. It is a known fact that to retain highly talented, cross-trained professionals in this industry, that working conditions and fringe benefits matter a great deal. Allband does not pay benefits, because we can’t afford it and the FCC made it clear in its 2012 Waiver Order that we had to cut costs, so we did, as discussed in Ron Siegel’s affidavit. Look at what Google, Apple, and most small telecommunication providers in this country offer in way of fringe employee compensation or benefits. Almost every company in the USA would require three to four people to undertake what Ron Siegel accomplished for Allband. I challenge USAC or the FCC to find ONE other person that has built a company like ours, as shorthanded and understaffed as we have been, and as we will be.

Additionally, I would like to comment on the findings of USAC in its September 2015 Memorandum regarding spousal travel and the comments by the FCC in its July 2016 Order regarding the same. This matter also involves a difference of judgment or opinion (or at most an unintentional allocation) concerning these expenses, which involved Ron Siegel's wife who traveled to Colorado with him for the oral arguments in our FCC Appeal in Colorado and travel expenses related to an employee Allband recruited from out of state.

The court case was obviously very important to Allband, the oral arguments went on for hours, with scores of major companies and the FCC sparring over numerous regulatory issues which ACC needed to hear and understand. Ron Siegel was in attendance to help our attorney prepare for technical, or specific questions that our attorney would need to discuss, as well as potential misstatements made in oral arguments by the counsel of other companies or the FCC. This cost is related solely to ACC, not AMM. The Board insisted that he take his wife with him to the hearings in Colorado as she was with child, and it mattered to us that her well-being was taken into account as well as Ron Siegel's. Again, we try to keep families together, not break them up. This again is an employee benefit, the total cost of which is minuscule, and yet it mattered a lot to him, so we did it. I will again ask, would the FCC rather we pay three other people to do his job and drain the USF of more money? If and when Ron Siegel leaves this company, I'm certain that we will not find just one person to fill his shoes. The multi-faceted talents of Ron Siegel clearly demonstrate the prudent and mindful use of support from the Universal Service Fund. The Allband community benefits greatly from Ron Siegel's abilities and his dedication to the goals of the USF, one of which is providing advanced telecommunications services to all Americans.

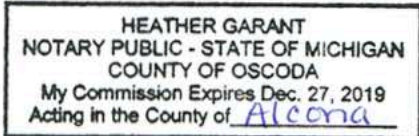
In regards to the spousal travel expenses related to the recruitment of an out of state employee, this is again an unintentional allocation error that is being used to inflate the seriousness

of a minor and non-recurring expense. Finding telecommunication talent in Curran, Michigan, an extremely rural area, can be difficult and asking someone to relocate to such a location can be a major decision for a single person, yet alone an entire family. It is important to the Board and the General Manager that a potential recruit from out of state travel to their newly proposed home in Michigan, with their family, to experience it as whole. The happiness, health and content of ACC's staff is critical to their performance and this situation is yet another example of the challenges ACC faces to not only maintain its company, but grow it with talent. Yet again, this difference of judgment or opinion, or at most unintentional "error", was unfairly used to question the trustfulness of ACC's accounting. The FCC in its 2012 Waiver has acknowledged ACC for its lean and well-balanced operations. Yet in the USAC review and the July 2016 Order, the abundance of positive accomplishments and accurate accounting are ignored, which far outweigh the difference in judgement or opinion concerning these specific issues. The result is to unfairly portray Allband in a negative light before the telecommunications industry and the Country.

19. I urge the FCC and its staff to take whatever necessary prompt action to prevent the destruction of over 11 years of successful effort to establish universal communications services in our rural area. As the founder of ACC, I stand behind our mission and hope that one day, the United States of America and the FCC will once again recognize our accomplishments and support our efforts to bridge the digital divide.

**VERIFICATION**

I, John M. Reigle, declare under penalty of perjury that the statements in this Affidavit are true and correct to the best of my knowledge and belief.



  
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John M. Reigle  
President  
Allband Communications Cooperative  
7251 Cemetery Rd.  
Curran, MI 48728

Subscribed and sworn before me, this

12 day of January, 2016.

Heather Garant

Heather Garant (Printed Name)

Notary Public, Oscoda County

Acting in the County of: Alcona

My Commission Expires: 12/27/19

